

UNITED STATES DISTRICT COURT

IN AND FOR THE WESTERN DISTRICT OF WASHINGTON

DANNY A. WING, SR.,) NO. 19-CV-5033
)
Plaintiff;) COMPLAINT
)
v.) JURY TRIAL DEMANDED
)
LEWIS COUNTY; JAMEY MCGINTY)
and JANE DOE MCGINTY and the marital)
community thereof; PATRICIA FINCH and)
JOHN DOE FINCH and the marital)
community thereof; ROSS KENEPAH and)
JANE DOE KENEPAH and the marital)
community thereof; MATHEW)
SCHLECHT and JANE DOE SCHLECHT)
and the marital community thereof;)
RAMONA ROMINE and JOHN DOE)
ROMINE and the marital community)
thereof; and CARRIE BREEN and JOHN)
DOE BREEN and the martial community)
thereof,)
)
Defendants.)

DANNY A. WING, SR., the Plaintiff herein, by and through his attorney, CHRISTOPHER
TAYLOR of CR Taylor Law, P.S., complains against defendants LEWIS COUNTY; JAMEY
MCGINTY and JANE DOE MCGINTY and the marital community thereof; PATRICIA
FINCH and JOHN DOE FINCH and the marital community thereof; ROSS KENEPAH and

JANE DOE KENEPAH and the marital community thereof; MATHEW SCHLECHT and JANE DOE SCHLECHT and the marital community thereof; RAMONA ROMINE and JOHN DOE ROMINE and the marital community thereof; and CARRIE BREEN and JOHN DOE BREEN and the martial community thereof, and alleges as follows:

I. JURISDICTION AND VENUE

1. This court has jurisdiction over this action pursuant to 28 U.S.C. § 1331, 1343 and 1367; and venue is properly set in the Western District of Washington State pursuant to 28 U.S.C. § 1391.
2. The claims upon which this action is based occurred in the Western District of Washington State.
3. Mr. Wing is informed and believes, and on this basis alleges, that each of the named Defendants reside in this judicial district.
4. Lewis County was served with a Claim for Damages pursuant to RCW 4.96. Lewis County has not responded to the Claim for Damages, and more than sixty days has elapsed since its service.

II. PARTIES

5. Plaintiff Danny A. Wing, Sr. is a married individual residing primarily in Grays Harbor County, Washington State within the Western District of Washington State.
6. Defendant Lewis County is a unit of local government located in Lewis County, Washington, governed by and functioning under the laws of the State of Washington. Lewis County includes the Lewis County Sheriff's Office and Lewis County Prosecuting Attorney's Office.

- 1 7. Defendants Jamey McGinty and Jane Doe McGinty constitute a marital community
2 under the laws of the State of Washington, and upon belief reside in Lewis County
3 within the Western District of Washington State. Jamey McGinty is and was at the time
4 of the incidents that are the subject of this action an employee of the Lewis County
5 Sheriff's Office.
- 6 8. Defendants Patricia Finch and John Doe Finch constitute a marital community under
7 the laws of the State of Washington, and upon belief reside in Lewis County within the
8 Western District of Washington State. Patricia Finch is and was at the time of the
9 incidents that are the subject of this action a law enforcement officer with the Centralia
10 Police Department.
- 11 9. Defendants Ross Kenepah and Jane Doe Kenepah constitute a marital community under
12 the laws of the State of Washington, and upon belief reside in Lewis County within the
13 Western District of Washington State. Ross Kenepah is and was at the time of the
14 incidents that are the subject of this action an employee of the Lewis County Sheriff's
15 Office.
- 16 10. Defendants Mathew Schlecht and Jane Doe Schlecht constitute a marital community
17 under the laws of the State of Washington, and upon belief reside in Lewis County
18 within the Western District of Washington State. Mathew Schlecht is and was at the
19 time of the incidents that are the subject of this action an employee of the Lewis County
20 Sheriff's Office.
- 21 11. Defendants Ramona Romine and John Doe Romine constitute a marital community
22 under the laws of the State of Washington, and upon belief reside in Lewis County
23 within the Western District of Washington State. Ramona Romine is and was at the
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1 time of the incidents that are the subject of this action an employee of the Lewis County
2 Sheriff's Office.

3 12. Defendants Carrie Breen and John Doe Breen constitute a marital community under the
4 laws of the State of Washington, and upon belief reside in Lewis County within the
5 Western District of Washington State. Ramona Romine is and was at the time of the
6 incidents that are the subject of this action an employee of the Lewis County Sheriff's
7 Office.

8 III. FACTS

9 13. Lewis County owns and operates the Lewis County Jail, an adult correctional facility.

10 14. Units of local government that own or operate adult correctional facilities are required
11 under Washington State law to "adopt standards for the operation of those facilities"
12 and to "operate[]" those facilities "in accordance with those standards." RCW
13 70.48.071.

14 15. Lewis County adopted Custodial Care Standards for the Lewis County Jail by Lewis
15 County Board of County Commissioners' Resolution No. 87-466 on December 28,
16 1987. Those Standards were in effect between January 1, 1988 through July 31, 2017,
17 when the Standards were repealed by Resolution No. 17-221.

18 16. Between January 1, 1988 and July 31, 2017, Standard 8.01 prohibited the
19 "monitor[ing], tape record[ing], [and] spot-check[ing]" of Lewis County Jail inmate
20 "telephone conversations" "except by court order."

21 17. Notwithstanding the Custodial Care Standards, at all relevant times Lewis County had a
22 custom of monitoring and recording nearly all inmate telephone conversations.
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1 18. Between November 7, 2014 and September 28, 2015; December 11, 2015 and
2 December 18, 2015; and July 7, 2017 and July 21, 2017; inclusive, Mr. Wing was an
3 inmate in the Lewis County Jail as a pretrial detainee.

4 19. At all relevant times, Mr. Wing had some degree of visual impairment. As such, Mr.
5 Wing had a reduced ability to communicate in writing. Thus, when Mr. Wing was held
6 in custody, he relied more than the average inmate on the inmate telephone system.

7 20. Between November 7, 2014 and July 21, 2017, Mr. Wing placed hundreds of telephone
8 calls from the Lewis County Jail and participated in the resulting telephone
9 conversations.

10 21. Some of those telephone calls were placed to Mr. Wing's criminal defense attorneys,
11 and were the subject of a separate civil action under *Wing v. County of Lewis, et al.*,
12 U.S. District Court for Western Washington Case No. 18-5011-RJB-DWC.

13 22. The balance of those telephone calls were placed to other individuals, including family
14 members, friends, and civil attorneys. These telephone calls are the subject of this
15 action.

16 23. Without a court order, Defendants Jamey McGinty, Patricia Finch, Ross Kenepah,
17 Mathew Schlecht, Ramona Romine, and Carrie Breen each listened to telephone
18 conversations in which Mr. Wing participated while he was an inmate in the Lewis
19 County Jail.

20 24. Without a court order, Defendants Ramona Romine and Carrie Breen created copies of
21 recordings of telephone conversations in which Mr. Wing participated while he was an
22 inmate in the Lewis County Jail.

1 IV. CAUSES OF ACTION

2 A. COUNT ONE

3 Violation of Civil Rights
(As to Individual Defendants)

4 25. Mr. Wing realleges and incorporates herein by reference the allegations set forth in
5 Paragraphs 1 through 24.

6 26. Defendants Jamey McGinty, Patricia Finch, Ross Kenepah, Mathew Schlecht, Ramona
7 Romine, and Carrie Breen acted in their individual capacity and under color of law to
8 deprive Mr. Wing of his procedural due process rights guaranteed under the 14th
9 Amendment to the U.S. Constitution based upon a violation of a state-created liberty
10 interest.

11 27. As a direct and proximate result of the individual Defendants' actions, Mr. Wing
12 sustained damages.
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14 B. COUNT TWO

15 Violation of Civil Rights
(As to All Defendants)

16 28. Mr. Wing realleges and incorporates herein by reference the allegations set forth in
17 Paragraphs 1 through 24.

18 29. Defendants acted pursuant to an unofficial custom or practice of Lewis County through
19 the repeated acts of its final policymaker, and thereby deprived Mr. Wing of his
20 procedural due process rights guaranteed under the 14th Amendment to the U.S.
21 Constitution based upon a violation of a state-created liberty interest.

22 30. As a direct and proximate result of the Defendants' actions, Mr. Wing sustained
23 damages.
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C. COUNT THREE
Violation of Privacy Act
(As to All Defendants)

31. Mr. Wing realleges and incorporates herein by reference the allegations set forth in Paragraphs 1 through 24.

32. Defendants unlawfully intercepted, recorded, and/or divulged Mr. Wing's private telephone conversations without obtaining the consent of each participant to the telephone conversations, and thereby violated Mr. Wing's right to privacy under RCW 9.73.030(1)(b), and is liable for damages under RCW 9.73.060.

33. As a direct and proximate result of the Defendants' actions, Mr. Wing sustained damages.

V. JURY TRIAL DEMAND

34. Mr. Wing demands a jury trial in this matter.

VI. RESERVATION OF RIGHTS

35. Mr. Wing reserves the right to amend this complaint as to the factual allegations contained herein, and to add any and all other claims that have or may arise from the facts underlying this lawsuit.

VII. PRAYER FOR RELIEF

36. To award actual damages;

37. In the alternative, to award nominal damages as to Counts 1 and 2, and liquidated damages as to Count 3 pursuant to RCW 9.73.060.

38. To award Mr. Wing his costs and attorneys fees pursuant to 42 U.S.C. § 1988 and/or RCW 9.73.060.

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1 39. To grant such other relief as this Court may deem just, equitable, and proper under the
2 circumstances.

3 DATED this 11th day of January, 2019.

4 CR Taylor Law, P.S.

5
6 /s/ Christopher Taylor
7 Christopher Taylor, WSBA # 38413
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